

RESOLUTION NO. R-2017- 0961

RESOLUTION APPROVING ZONING APPLICATION DOA-2016-02216
(CONTROL NO. 1973-00077)
a Development Order Amendment
APPLICATION OF First Union Natl Bank of Fla
BY Dunay, Miskel and Backman, LLP, AGENT
(Atlantic Bank Corp)

WHEREAS, the Board of County Commissioners, as the governing body of Palm Beach County, Florida, pursuant to the authority vested in Chapter 163 and Chapter 125, Florida Statutes, is authorized and empowered to consider applications relating to zoning;

WHEREAS, the notice and public hearing requirements pursuant to Article 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code, Ordinance 2003-067 as amended (ULDC), have been satisfied;

WHEREAS, Zoning Application DOA-2016-02216 was presented to the Board of County Commissioners at a public hearing conducted on July 27, 2017;

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the Applicant and other interested parties, the recommendations of the various County Review Agencies, and the recommendation of the Zoning Commission;

WHEREAS, the Board of County Commissioners pursuant to Article 2 (Development Review Procedures) of the ULDC is authorized and empowered to consider, approve, approve with conditions or deny the request;

WHEREAS, the Board of County Commissioners hereby incorporates by reference the Findings in the staff report addressing the Standards contained in Article 2.B (Public Hearing Process) for a Development Order Amendment;

WHEREAS, this approval is subject to Article 2.E (Monitoring), of the ULDC and other provisions requiring that development commence in a timely manner;

WHEREAS, the issuance of this Development Permit does not in any way create any rights on the part of the Applicant and/or Property Owner to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the Applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law;

WHEREAS, the Palm Beach County Survey Section may administratively correct any scrivener's errors that will not significantly impact the overall boundary of the adopted legal description; and,

WHEREAS, Article 2.A.1.K.3.b (Action by BCC) of the ULDC requires that the action of the Board of County Commissioners be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Application DOA-2016-02216, the Application of First Union Natl Bank of Fla, by Dunay, Miskel and Backman, LLP, Agent, for a Development Order Amendment to reconfigure the Site Plan and delete land area, on a parcel of land generally described as shown on the legal description in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on July 27, 2017, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner McKinlay moved for the approval of the Resolution.

The motion was seconded by Commissioner Kerner and, upon being put to a vote, the vote was as follows:

Commissioner Paulette Burdick, Mayor	-	Aye
Commissioner Melissa McKinlay, Vice Mayor	-	Aye
Commissioner Hal R. Valeche	-	Absent
Commissioner Dave Kerner	-	Aye
Commissioner Steven L. Abrams	-	Absent
Commissioner Mary Lou Berger	-	Aye
Commissioner Mack Bernard	-	Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on July 27, 2017.

Filed with the Clerk of the Board of County Commissioners on August 2nd, 2017.

This resolution is effective when filed with the Clerk of the Board of County Commissioners.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

SHARON R. BOCK,
CLERK & COMPTROLLER

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK & COMPTROLLER



EXHIBIT A

LEGAL DESCRIPTION

LEGAL DESCRIPTION: (REMAINING PORTION OF WELLS FARGO)

A PARCEL OF LAND LYING IN AND BEING A PORTION OF SECTION 25, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SAID SECTION 25; THENCE S89°22'26"E, ALONG THE NORTH LINE OF SAID SECTION 25, A DISTANCE OF 829.53 FEET; THENCE, DEPARTING SAID NORTH LINE, S00°37'34"W, A DISTANCE OF 46.39 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF OKEECHOBEE BOULEVARD (PER FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP SECTION 93280-2507) AND THE POINT OF BEGINNING; THENCE S01°17'30"W, A DISTANCE OF 253.61 FEET TO THE NORTH RIGHT-OF-WAY LINE OF LAKE WORTH DRAINAGE DISTRICT CANAL (L-1) AS DESCRIBED IN OFFICIAL RECORDS BOOK 3458, PAGE 1986, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE N89°22'26"W, ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 327.62 FEET; THENCE, DEPARTING SAID NORTH RIGHT-OF-WAY LINE, N00°23'13"E, A DISTANCE OF 250.17 FEET TO THE SAID SOUTH RIGHT-OF-WAY LINE OF OKEECHOBEE BOULEVARD; THENCE, ALONG SAID SOUTH RIGHT-OF-WAY LINE THE FOLLOWING FIVE (5) COURSES: (1) S89°57'54"E, 93.70 FEET; (2) S52°52'58"E, 19.90 FEET; (3) S89°57'54"E, 62.00 FEET; (4) N55°00'52"E, 20.91 FEET; (5) S89°57'54"E, 142.93 FEET TO THE POINT OF BEGINNING.

CONTAINING 82,081 SQUARE FEET OR 1.884 ACRES, MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

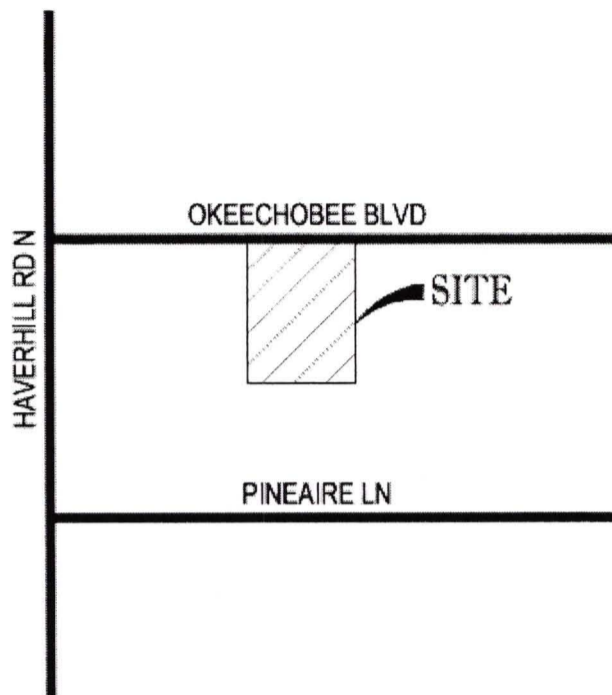


EXHIBIT C

CONDITIONS OF APPROVAL

Development Order Amendment

ALL PETITIONS

1. All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-73-387 (Control 1973-00077), have been consolidated as contained herein. The Property Owner shall comply with all previous Conditions of Approval and deadlines previously established by Article 2.E of the Unified Land Development Code and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

2. The approved Preliminary Site Plan is dated May 11, 2017. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

ENGINEERING

1. Previous ENGINEERING Condition 1 of Resolution R-1973-387, Control No.1973-00077, which currently states:

Prior to the issuance of any building permits, the developer shall dedicate, to Palm Beach County, the additional rightof- way required to provide for ninety (90) feet from the centerline for Okeechobee Boulevard

Is hereby amended to read:

The Property Owner shall provide to the Florida Department of Transportation (FDOT), a road right of way deed and all associated documents as required by FDOT for Okeechobee Boulevard, 70 feet, measured from centerline of the proposed right of way on an alignment approved by the FDOT or County Engineer

All right of way deed(s) and associated documents shall be provided and approved prior to the issuance of the first building permit for additional square footage. Right of way conveyance shall be along the project's entire frontage and shall be free and clear of all encumbrances and encroachments. Property Owner shall provide FDOT with sufficient documentation, including, at a minimum, sketch and legal description of the area to be conveyed, copy of the site plan, a Phase I Environmental Site Assessment, status of property taxes, statement from Tax Collector of delinquent and pro-rata daily taxes, full owner name(s) of area to be conveyed, and one of the following: title report, attorney's opinion of title, title commitment or title insurance policy, or as otherwise required and acceptable to FDOT. The Property Owner must warrant that the property being conveyed to FDOT meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Property Owner, the Property Owner agrees to hold the County and FDOT harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, engineering or other expert witness fees including attorney's fees as well as the actual cost of the clean up. Thoroughfare Plan Road right of way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include where appropriate, as determined by the County Engineer, additional right of way for Expanded Intersections and Corner Clips. The Property Owner shall coordinate conveyance of right of way directly with FDOT and shall provide evidence to Palm Beach County Land Development Division once conveyance has been completed. (BLDGPM: MONITORING - Engineering)

2. Previous ENGINEERING Condition 2 of Resolution R-1973-387, Control No.1973-00077, which currently states:

Developer shall construct frontage road.

Is hereby deleted. [REASON: No longer applicable.]

3. Prior to August 1, 2018, the Property Owner shall configure the property into a legal lot of record in accordance with provisions of Article 11 of the Unified Land Development Code concurrently with the property to the west with Zoning Control Number 1978-00288 and shall create onsite all necessary cross access easements for access between the two sites. (DATE/ONGOING: MONITORING - Engineering)

LANDSCAPE - GENERAL

1. Prior to January 27, 2018, the Property Owner shall replace all dead and missing plant materials on the entire subject property. (BLDGPMPT/DATE: ZONING - Zoning)

LANDSCAPE - PERIMETER-WEST PROPERTY LINE

1. The Property Owner shall provide a five (5) foot wide Compatibility buffer along the western property line as follows:

- a. No later than November 27, 2017 the Property Owner shall apply for a Landscape Permit for landscape installation.
- b. No later than January 27, 2018, the Property Owner shall obtain final inspection approval of the landscape installation. (BLDGPMPT/DATE: ZONING - Zoning)

PLANNING

1. Prior to final approval by the Development Review Officer (DRO), submit a recorded cross access easement agreement for the location at the Southwest corner of the site as depicted on the site plans. (DRO: PLANNING - Planning)

SIGNS

1. Any modification to the existing non-conforming offsite directional sign, as approved through Building Permit B-1989-027538-0000, and fronting on Haverhill Road, shall require Variance approval. (ONGOING: ZONING - Zoning)

COMPLIANCE

1. In Granting this Approval, the Board of County Commissioners relied upon the oral and written representations of the Property Owner/Applicant both on the record and as part of the application process. Deviations from or violation of these representations shall cause the Approval to be presented to the Board of County Commissioners for review under the Compliance Condition of this Approval. (ONGOING: MONITORING - Zoning)

2. Failure to comply with any of the Conditions of Approval for the subject property at any time may result in:

- a. The Issuance of a Stop Work Order; the Issuance of a Cease and Desist Order; the Denial or Revocation of a Building Permit; the Denial or Revocation of a Certificate of Occupancy; the Denial of any other Permit, License or Approval to any developer, owner, lessee, or user of the subject property; the Revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; the Revocation of any concurrency; and/or
- b. The Revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
- c. A requirement of the development to conform with the standards of the Unified Land Development Code at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing Conditions of Approval; and/or
- d. Referral to Code Enforcement; and/or
- e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or the Code Enforcement Special Master to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 2.E of the

ULDC, in response to any flagrant violation and/or continued violation of any Condition of Approval. (ONGOING: MONITORING - Zoning) (ONGOING: MONITORING - Zoning)

DISCLOSURE

1. All applicable state or federal permits shall be obtained before commencement of the development authorized by this Development Permit.